

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
 V.) CR. NO. 04-10390-WGY
)
MICHAEL AMBERS)

ASSENTED-TO MOTION TO CONTINUE

The United States, with the assent of the defendant, moves to continue the date by which it must produce the information identified in Local Rule 116.2(B)(2)(that has not already been produced) from November 14, 2005, to November 21, 2005. In support of its motion, the government says the following.

1. Defense counsel has informed the government that the defendant is considering a change of plea and has a motion pending in state court to dismiss one of his three Armed Career Criminal ("ACC") predicate convictions.¹

2. It is the policy of the United States Attorney's Office to decline to move to give a defendant the third Acceptance of Responsibility point pursuant to U.S.S.G. §3E1.1 unless a defendant has notified the government more than twenty-one days before trial of his intention to change his plea because the government will have begun to prepare for trial by, among other things, making the twenty-one-day-before-trial production required by Local Rule 116.2(B)(2). Allowing the government the

¹ A hearing on, and likely determination of, the Motion is scheduled for November 14, 2005.

extra week to comply with its pre-trial discovery obligations under L.R. 116.2 would permit the government to move to grant the defendant the third Acceptance of Responsibility point pursuant to U.S.S.G. §3E1.1 if the defendant decides to change his plea during the next week (and after his motion to dismiss one of his ACC predicate convictions is likely decided).

3. The government believes it has previously produced all discovery required by Local Rule 116.2(B)(2). The requested extension would permit the government to delay its customary "due diligence" investigation (in order to make certain it has satisfied its twenty-one-days-before-trial discovery obligations) until after the defendant has decided whether to change his plea.

4. The defendant assents to the motion.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/CHRISTOPHER F. BATOR
Assistant U.S. Attorney

Assented-to:
Michael Ambers
by his counsel,

Dated: November 14, 2005

/s/Frank D. Camera, Esq.(C.F.B.)
56 North Main Street
Fall River, MA 02020

CERTIFICATE OF SERVICE

I, CHRISTOPHER F. BATOR, certify that I have served a copy of the above upon Frank D. Camera, Esq. by first class mail.

/s/CHRISTOPHER F. BATOR
Assistant U.S. Attorney

Dated: November 14, 2005